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DETAILED ACTION

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 14

Application Number: 09/096,939
Filing Date: 06/12/1998
Appellant(s): KULT

Rudolph J. Buchel, Jr
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed 10/10/01.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct. The examiner could enter the amendment because it does not change scope of claims and appears to be an oversight on the part of the examiner.

(5) Summary of Invention

The summary of invention contained in the brief is correct. However, the examiner believes (fig. 2) is more indicative of the claimed language.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 1-20 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

5825857	RETO ET AL.	10/20/1998
5912961	TAYLOR ET AL.	06/15/1999

5920621	GOTTLIEB	07/06/1999
5937042	SOFMAN	08/10/1999

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. Claims 1-4, 6-8, 10, 11, 15-16 and 18-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Sofman (US Pat# 5,937,042).

Regarding claim 1, Sofman teaches a computer system within a telecommunications network used in rehome optimization comprising of data processing system in conjunction with a switch (see fig. 2B, fig. 3 and column 5 line 60-column 7 line 11) wherein the computer system has a processor (see CPU or processor of fig. 3, 102, 104, 108 of fig.2A),

Sofman teaches a resource management means (see column 7 lines 7-8, 23-24) which can be stored on a data storage means. Furthermore, eventhough, not shown in (fig. 3), the memory of the data processing system has an inherent application thus making it possible to control the functionality of the system including the CPU, hard drive and a printer. Sofman teaches in (fig. 3) a processor, hard drives, disk, mouse, keyboards, interface cards and so forth under the control of the data storage device including memory (206) and hard drive (see column 5 line 60-column 6 line 23);

a resource management is shown by the applicant (see fig. 2) of claimed invention as means embedded within a main memory as part of an application program

Sofman teaches that the resource management means comprises one of a switch management means which includes a plurality of switch resources (program codes/instructions or intelligence) behind the switch, semaphore resource manager (see column 19 lines 6-23), rehome group circuits (see column 1 lines column 2, column 12 lines 48-50, fig. 2B and fig. 3) and applications or a program to monitor status of the switch traffic and format traffic data which reads on either a switch controller resource manager or switch resource resource manager;

Sofman teaches one or more application interfaces, which according to dependent claims claims 9, 10, 11, 15 and 17 could include a create call data block entry/table, create semaphores, create switch memory segment, creta group entry, print group table, get group count, delete group entry and so forth, (see column 19 lines 5-23, column 15 lines 16-column 20, columns 13-14, figs.), to manage the internal/external operational resources and applications processing data (see column 5 lines 61-column 6 line 1, column 7 lines 21-25, column 18 lines 25-31);

Sofman teaches in (see column 2 lines 1-5) that data characterizing the ***current state*** of network ***resources*** including *traffic throughput and resource availability is* collected by a data granulator, part of the computer system, which according to *(see column 18 lines* 25-31, column 19 lines 14-23, column 20, figs. 24, 27-31) can be formatted in a plurality of tables. Sofman teaches a plurality of programs in conjunction with processor within a network data (102) which can perform different functionalities. Sofman teaches in (column 7 lines 21-30) that the computer system comprising a plurality of data storage devices with data and management applications. Fig. 2A for instance shows a plurality of data storage means and processors used in

monitoring traffic status. Note that the user's interface or data processing unit can stored any information received from other external resource managers characterizing the current state of resources in its memory which can be displayed on a monitored.

Regarding claim 2, Sofman teaches a method for managing network resources comprising of a user defining a desired rehome optimization criteria or constraints (see column 2 lines 28-33, lines 42-47, column 4 lines 25-29) through an operator console (see 116 of 118 of fig. 2) to a resource manager (rehoming optimizer, 108) which can provide solutions in response to a user's query (questions) by calculating rehoming solutions for optimal network configurations. Furthermore, Sofman teaches that a data granulator, possible first resource manager, (see 104 of fig. 2B), part of a computer system defined as a possible integration of a data processing system in conjunction with a switch, (see column 7 lines 21-30), **"accesses"** various data repositories (second resource managers) (see column 4 lines 453-54) from which its generated database is used as an input to the rehoming optimizer which eventually provides solutions to a user's rehoming request. According to Sofman, (see column 18 lines 25-31) through a common standard namely; normalized standard query language, it can create database tables in regard to data information reflecting the current state of network resources (see column 2 lines 1-15 and figs 27-31). The current resource state according to the claimed language comprises one of: interpreted by the examiner to be **switch data** (traffic data, RCGs and so forth) or **semaphore data** (see column 19 line 4-11, column 2 lines 1-15) one of the possibilities.

Regarding claim 3, Sofman teaches an integrable computer system in a telecommunications network comprising a processor which may any one of a plurality of processors (104 or 202 of fig. 2-3) and plurality of application program interface (see column 7 lines 22-30, column 19 lines 5-23, column 15 lines 16-column 20, columns 13-14, figs.) for

enabling the processor which is connected to a memory (see 206 of fig. 3) to provide interface between one resource requestor, an example (column 21), "resource requestor" could any processes by usage of instructions or codes stored in a data storage, and data organized in a plurality of tables corresponding to one or more resources (see column 21, column 18 lines 25-31, figs.), each of the application program interface means comprising:

a sending means for sending a query could read on a plurality of possibilities including a user's terminal sending rehome optimization criterion by means of an inherent software which makes it possible to perform one of the following "print or set up operational measurements (see figs. 8-22 and column 13, column 15 line 12, lines 27-28), create/delete group entry (see create or deletion of group entry, RCG, figs.. 12-13), all part of the application interface means" to request for possible solutions as taught by Sofman **or**

a data granulator (104) "accessing" one of a plurality of repositories; and a managing means (formatter) for managing the received data stored in the memory and organized in the table format using the query (see figs. 27-31 and column 18 lines 25-31), wherein the application program means provides system-wide interface with the data reads on the program used in writing functionality codes such as SQL or C+ as taught by Sofman (column 18 lines 25-31 and column 31 line 28);.

wherein each of the plurality of application program interface means complies with a common standard for application interfaces reads on the fact that the switch before it's implement would do so based on a programmable language with instructions (sequencing, branching and so forth) including a SQL (standard query language, column 18) or a C+ language (see column 31 lines 28-32) or common language identification code (see column 8 line 57);

wherein each of the application program interface means manipulating the data to reflect the current resource state which reads on the fact that information gathered from raw data could be analyzed and formatted into a readable report comprising of current state of network resources (see figs., column 19, column 18 lines 25-31 and column 2). According to the applicant, an application program interface means includes a semaphores (see column 19 line 10 of Sofman), similar to claim 9, print or set up operational measurements (see figs. 8-22 and column 13, column 15 line 12, lines 27-280, create/delete group entry (see create or deletion of group entry, RCG, figs.. 12-13). Sofman teaches a plurality of application programmer interface means (icon modules) which when selected or entered enables one to perform the associated functionalities associated with that application Furthermore, an inherent programmer interface means including call completion software enables a switch to complete a call and (see column 21), processing of data including validation, merging or manipulating information attained from a table(s) and so forth.

Regarding claims 4 and 19, Sofman teaches one of the following namely; switch controller data or switch control logic program data based on the fact that his teaching could possibly be incorporated in a switch and for a switch to function or perform its functionalities, it needs software and hardware to work hand in hand (see column 19, column 20, column 21 and so forth).

Regarding claim 6, A user interface which for instance can store in its memory (see fig. 3) any received information from a rehoming optimizer in response to a request A second possibility could be a data granulator updating its database with newly received information from other repositories.

Regarding claim 7, A user can retrieve any store information stored in a memory of a computer system for subsequent usage. According to Sofman, information could be organized in a table format or tables.

Regarding claim 8, Sofman teaches data comprising of a service logic program (see column 21), semaphore (see column 10) and switch logic means (C++, SQL, software).

Regarding claim 10, Sofman teaches an application programmer interface means comprising software embedded in a plurality of storage or data storage means including memory of fig. 3 to make implementation of switch functionalities possible (see column 5 line 61-column 6 line 1 and so forth).

Regarding claim 11, Sofman teaches taking traffic measurement or statistics (see figs.) and being able to print results (see column 15 lines 27-29) based on user's criteria.

Regarding claims 15-16 and 18, Sofman teaches in (column 13) that a group entry can be created, deleted or edited in a row cell. Furthermore, fig. 14 teaches an "add" or "delete" icon which inherently function in conjunction with a programmable code.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 9 is rejected under 3 5 U.S.C. 10 3(a) as being unpatentable over Sofman in view of Taylor et al. (US Pat# 5,912,961).

Regarding claim 9, Sofman fails to teach the claimed subject matter but Taylor teaches an intelligent communications network in (see fig. 1) with a plurality of resources to manage a communication system wherein a blocking semaphore can be increased in an application program type (see column 7 lines 17-40). Therefore, it would have been obvious to one of Taylor into that of Sofman, thus making it possible to send an instruction to cause an application to be blocked ready for a next call (see column 7 lines 17-40) which by definition is what a semaphore does ie prevent interference with a program when in use.

7. Claims l2-14 and 17 are rejected under 35 U.S.C.103(a)as being unpatentable over Sofman (US Pat# 5,937,042) in view of Gottlieb (US Pat# 5,92 0,621).

Regarding claims 12 and 14, Sofman fails to teach creating an agent entry via an application interface means and a heartbeat message but Gottlieb teaches an automatic call teaches in (see entire disclosure) updating the status of call agents as being available or busy (see column 2) and receiving heartbeat messages (see column 9 lines 51-5 6).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Gottlieb into that of Sofman thus making it possible to route incoming calls through network resources or to agents based on availability of resources.

Regarding claim 17, The combination teaches in (column 5 *lines 2 0-2 2 of Gottlieb)* that a DAP can through call processing instructions block a call if it is unauthorized.

8. Claim 20 is rejected under 3 5 U.S.C. 103(a) as being unpatentable over Sofman in view of Reto et al. (US P at# 5,825,857).

Regarding claim 20, Sofman teaches a calling card feature (see column 8 line 44) but fails to teach the claimed subject matter in detail but Reto teaches a method and system for calling

card validation hubbing comprising of storing call detail record (see fig. IIc) comprising of call origination ID, call start time, call duration, estimated call charge and so forth.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Reto into that of Sofman thus making it possible to generate a billing record for toll calls based on the stored call detail parameters.

Allowable Subject Matter

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Thus, the applicant response overcomes the 112 rejection.

(11) Response to Argument

Appellant's argument filed on 10/10/01 have been fully considered but they are not persuasive.

Regarding claim 5

Appellant's response overcomes the 112 rejection. The claim has been indicated as allowable.

Regarding claim 1, 4 and 19

The appellant's argues that the prior art of record fails to teach a resource management means for enabling a processor to provide standardized management of multiple resources including operational resources, external resources and applications processing data. The appellant also argued that much of the examiner's rationale was hard to follow because the examiner includes a data granulator, and rehoming means as part of resource management means.

Eventhough, the invention in question might differ from the prior art of record based on the figures presented as part of the brief (see fig. 3), claim 1 seems more indicative of fig. 1. The examiner points the appellant to (column 6 lines 12-20, column 7 lines 21-30) that the data processing system (fig. 3 of Sofman) could include a switch. The examiner would like to point out

that the data processing system thus reads on a computer system which the examiner considers to contain all the elements including that of (figs. 2 and 3).

Furthermore, the examiner would like to point the appellant to fig. 3 which teaches a resource management (see memory and column 7 lines 21-30, column 5 lines 61-67) which would contain programming applications. Now, the resource management means (programs) with inherently multiple instructions or codes provides management of a plurality of the data processing system's resources including hard drives, all the other components (hardware components) and also, raw data gathered during the optimization process which can be formatted into tables as shown in (figs) of the prior art which reads on a resource management enabling a processor to provide standardized management of multiple resources including internal operations resources, external components and application processing data. A switch has a plurality of functionalities and in this case would also, apply to the switch taught by Sofman which would complete calls, monitor traffic data and so on. The examiner would like to point out to the appellant that if the data processing unit is considered as a single computer system, then the components including the data granulator can be considered a resource manager which according to (column 18 lines 25-31) can use a standard query language (SQL), a computer language. The appellant questions whether the prior art of record (Sofman) teaches a "standard" management of multiple resources. If the resources are considered to include a plurality of hardware components which can be integrated as part of the data processing system, then any language structure written to enable the data processing system to implements its functionalities could be said to provide standard management. Sofman teaches in for instance (column 18 lines 25-31) which teaches being able to use a standard query language, a common language location code (see column 8 lines 57-58) and also, C+ programming as possible language means (see column 31 line 28). Furthermore, Sofman teaches a

plurality of possibly interfacing a data processing system "computer" with a plurality of other systems "adapters, peripheral elements and so forth" which would be able to communicate with teach other. The prior art (Sofman) teaches displaying current state of network resources (RCGs) in conjunction with traffic data which can be stored in one of the storage means of the data processing system.

Thus, in summary, the examiner disagrees with the appellant because it seems that the appellant regards the resources to be solely software modules based on the arguments whereas the examiner the examiner considers resources to include hardware components, information stored on floppy disk (see fig. 3) and so on. For instance, claim 4 states a switch controller data or service logic program data which would read on instructions making it possible for a switch to complete a call from one destination to another in addition to being able to collect traffic data all done by automated process inherently based on programmable codes.

Regarding claims 2, 6 and 7

The appellant argues that the prior art of record fails to teach sending a query to a resource manager wherein the resource manger manages information corresponding to a resource, the resource manager complying with a common "standard" for resources managers within the network.

Again, based on the previous logic, one considers the data processing system as a computer unit or system, then "sending a query to a resource manager wherein the resource manager manages information corresponding to a resource, complying with a common standard for resource managers within the network" could read on a system administrator sending rehoming criterion from an interface to a rehoming optimizer for which subsequent answers solution would be provide in regard to information pertinent to the network such as resource information shown

in (figs. 28-30). Again, the information could be displayed in a table format to reflect current state of network resources (traffic state of circuit and so on). A manual interpretation.

Another interpretation could be a data granulator (see fig. 2), an element of the data processing system, a first resource manager, "accesses" one of a second resource managers: data repositories (see column 4 lines 42-54). According to (column 18), a common standard namely; SQL (standard query language) can be used a common standard, in creating a table detailing current resource state (see column 2 lines 1-16 and column 18 lines 25-31) based on gathered switch data. The appellant limits a resource manager to one component but the examiner begs to differ because a system could comprises of a plurality of resource managers (processors) functioning together to make a system operable. An example could be a first resource manager (processor) communicating with another manager (manager) as taught by Sofman. Furthermore, see the explanation as set forth in the rejection of claims 6 and 7.

Regarding claims 3, 8, 10, 11, 15, 16 and 18

The appellant argues that the prior art of record to teach the claimed limitations of claim 3. The examiner disagrees because the plurality of application interface means are nothing more but programmable codes or part of a program such as semaphore (see claim 9) taught by Sofman (column 19 line 10), set up or print operational measurement (see claim 11), a feature taught by Sofman (see figs, column 13, column 15 lines 16-28) which teaches being able to set up, delete, add or print setup; and to be able to create a group entry (see claim 15), something Sofman teaches by giving the user the ability to create group entry (RCG group) through inherent software modules (see figs.). Sofman teaches a plurality of applications which makes the data processing system function. Sofman teaches at least one resource requestor (program module) interacting with other resources (see column 21). Sofman teaches that a standard language

including SQL, common language code or a language such as C+ could be used in building a resource including software modules in controlling a data processing system. The switch taught by Sofman serves to provide a plurality of functionalities inclduing call completion, traffic monitoring and so forth. Sofman in (columns 21-22) teaches a plurality of processes including matching, validation, sorting, selecting and so forth when resources are requested.

Regarding claims 9

The appelant argues that the combination is improper and lacks motivations. The examiner disagrees, a second look, at the primary reference (Sofman) in fact teaches semaphores (see column 19 line 10) which according to Sofman enforces the correct order of processing.

Regarding claims 12-14 and 17

The appellant argues that rejection of claims 12-14 and 17 lacks motivation to combine both references. The examiner disagrees because eventhough, Sofman is directed to traffic management t system, the system is also directed to a telephone communication system used in completing for telephone calls. For instance, in (column 8 line 47), Sofman mentions a "calling card feature" thus it could be said incorporating other known telephone features into that of the switch if view from a larger context would be obvious ie: a switch capable of providing telecommunications services in conjunction with the fact that it can monitor call traffic data.

Taylor (US Pat# 5,912,961), also, teaches resource managers, APIs and so forth relevant to the claimed subject matter (see entire disclosure).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

December 3, 2001

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